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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,487	03/14/2001	James Robert Davis	STL9-2000-0074US1	3624
45112	7590	11/15/2005	EXAMINER	
KUNZLER & ASSOCIATES 8 EAST BROADWAY SUITE 600 SALT LAKE CITY, UT 84111			BLAIR, DOUGLAS B	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/808,487

Applicant(s)

DAVIS ET AL.

Examiner

Douglas B. Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,269,402 to Lin et al..
4. As to claim 15, Lin teaches a system for ensuring client access to unpaired messages from a server comprising: a request module configured to receive a client request (col. 3, lines 5-27, a request module is inherent to any server); a response generator which receives the client request from the request module and generates and appropriate response (col. 3, lines 5-27, a response generator is inherent to any server); an unpaired message module which analyzes the response message generated by the response generator and configured to distinguish a paired message from an unpaired message in response to a communication disruption between the client and the server and to store paired messages in a paired response data structure and unpaired messages in an unpaired response data structure (col. 3, lines 5-27, the unpaired messages are

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stored in the session transition control block); and a response module which communicates paired and unpaired messages to a client (col. 5, lines 35-63).

5. As to claim 16, Lin teaches the system of claim 15, wherein the unpaired message module is further configured to dynamically create the unpaired response data structure in response to a first unpaired response message (col. 3, lines 5-27).

6. As to claim 17, Lin teaches the system of claim 15, wherein the response module is configured to automatically send all unpaired messages stored in the unpaired response data structure (col. 5, lines 35-63).

7. As to claim 18, Lin teaches the system of claim 15, wherein the response module is configured to send all unpaired messages stored in the unpaired response data structure in response to a request from the client (col. 5, lines 35-63).

8. As to claim 19, Lin teaches the system of claim 15, wherein the system is activated upon the server receiving an activation request from the client (col. 5, lines 35-63).

9. As to claim 20, Lin teaches the system of claim 15, wherein the response module notifies the client when the unpaired response data structure contains at least one unpaired message (col. 5, lines 35-63).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,269,402 to Lin in view of U.S. Patent Number 6,877,036 to Smith et al..

12. As to claim 1, Lin teaches a method for ensuring client access to unpaired messages from a server, comprising: the server detecting and storing at least one unpaired message in an unpaired message data structure (col. 3, lines 5-27, the session control block is the unpaired message data structure), the at least one unpaired message comprising a communication response for a specific client, the server distinguishing the at least one unpaired message from a paired message in response to a communication disruption between the client and the server (col. 3, lines 5-27, the unpaired messages are stored in the session transition control block); creating the unpaired message data structure in a server, the unpaired message data structure configured to store a plurality of unpaired messages intended for the client and utilizing a protocol which allows the client to request at least one unpaired message stored in the unpaired message data structure (col. 3, lines 5-27, the stored messages are routed once the disruption is solved); however Lin does not explicitly teach the unpaired message data structure being an unpaired message queue.

Smith teaches the use of an output queue in a system for managing connections between clients and server (col. 8, line 65-col. 9, line 26).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Lin regarding a system for ensuring a client access to unpaired message with the teachings of Smith regarding the use of an output queue because the use of an output queue reduces the load on a server's CPU (Smith, col. 1, lines 15-44).

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13. As to claim 2, Lin teaches the method of claim 1, wherein the method further comprising the server dynamically creating the unpaired message queue in response to the server detecting at least one unpaired message (col. 3, lines 5-27).

14. As to claim 3, Lin teaches the method of claim 1, wherein the method further comprising notifying the server of a client request to enable dynamic creation of the unpaired message queue (col. 3, lines 36-42).

15. As to claim 4, Lin teaches the method of claim 3, wherein notifying the server occurs during establishment of communications between the client and the server (col. 3, lines 5-27).

16. As to claim 5, Lin teaches the method medium claim 1, wherein the method further comprising the server notifying the client when the unpaired message queue contains an unpaired message (col. 5, lines 35-63).

17. As to claim 6, Lin teaches the method of claim 1, wherein the method further comprises: generating a request message to be sent from the client to the server; storing an indicator in request message to enable the client to distinguish between unpaired messages (col. 3, lines 5-27).

18. As to claim 7, Lin teaches the method of claim 1, wherein utilizing the protocol further comprises allowing the client to request automatic transmission of unpaired messages stored in the unpaired message queue (col. 5, lines 35-63).

19. As to claims 8-14, they are rejected for the same reasons as claims 1-7.

***Response to Arguments***

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20. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBB

DBB



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER

***Request for Information***

The Applicant(s) and the assignee, if any, are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application:

Any available information on the Open Transaction Message Access protocol identified on page 6 lines 9-17 of the specification. A search for information on this protocol on the Internet revealed no documents. A search of internal PTO databases (USPAT, USPGPUB, EPO, JPO, Derwent, and IBM TDB) disclosed no information on this protocol other than this application itself. Since the applicants themselves describe the protocol as being "for use with the present invention" (i.e., relevant"), information on the protocol, particularly information published by the inventors or assignee, is necessary to properly examine the application.

In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in the Applicants' disclosure.

The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in



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1 the Applicants' first complete communication in responding to this requirement. Any  
2 supplemental replies subsequent to the first communication responding to this  
3 requirement and any information disclosures beyond the scope of this requirement  
4 under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR  
5 1.97.

6 The Applicants are reminded that the reply to this requirement must be made  
7 with candor and good faith under 37 CFR 1.56. Where the Applicants do not have or  
8 cannot readily obtain an item of required information, a statement that the item is  
9 unknown or cannot be readily obtained will be accepted as a complete response to the  
10 requirement for that item.

### 11 **Conclusion**

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15 This requirement is an attachment of the enclosed Office action. A complete  
16 reply to the enclosed Office action must include a complete reply to this requirement.  
17 The time period for reply to this requirement coincides with the time period for reply to  
18 the enclosed Office action.

19  
20 Any inquiry concerning this communication or earlier communications from the  
21 examiner should be directed to Douglas Blair, whose telephone number is (571) 272-  
22 3893. The examiner can normally be reached on M-F from 9:00 a.m. to 5:30 p.m. EST.

23  
24 The fax number for Group 2100 is as follows:

25  
26 Fax Responses: 571-273-8300  
27  
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1 Any general inquiry relating to the status of this application can be answered using  
2 Patent Application Information Retrieval (PAIR) system, which is available at the  
3 USPTO web site. Any questions on using the PAIR system should be directed to the  
4 Patent Electronic Business Center toll free at (866) 217-9197.

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10 Douglas Blair  
11 571-272-3868  
12 October 23, 2005

ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER

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1 **Appendix to Request for Information**

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3 4 pages of search strategy/results – see attached

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